

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

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AUGUSTA DIVISION

CLERK J. Hodges
SO. DIST. OF GA.

JAMAL EDWARD VERDREE, SR.,)

Plaintiff,)

v.)

CV 120-149

RICHMOND COUNTY BOARD OF)
EDUCATION,)

Defendant.)

ORDER

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation ("R&R"), to which no objections have been filed. The Magistrate Judge recommended dismissing the case without prejudice because Plaintiff failed to state a claim under the Equal Pay Act ("EPA"), 29 U.S.C. § 206(d), and failed to show exhaustion of administrative remedies prior to bringing suit under the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12112. In lieu of objections, Plaintiff filed a notice of right to sue from the Equal Employment Opportunities Commission ("EEOC"), doc. no. 1-1, and an amended complaint, doc. no. 8.

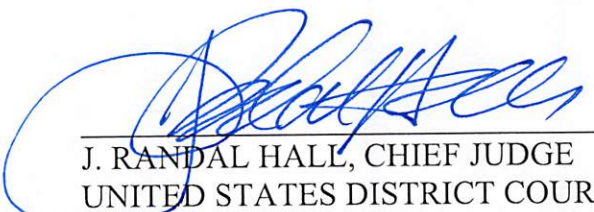
In filing the notice of right to sue from the EEOC, Plaintiff corrects the exhaustion deficiency noted in the December 12th R&R. (Doc. no. 6.) However, Plaintiff's ADA claim should still be dismissed for failure to state a claim upon which relief may be granted. In

order to establish a circumstantial *prima facie* case of discrimination under the ADA, a plaintiff must demonstrate that he or she (1) is disabled, (2) is a qualified individual, and (3) was subjected to unlawful discrimination because of his or her disability.” Shepard v. United Parcel Serv., Inc., 470 F. App'x 726, 728 (11th Cir. 2012). The ADA defines a disability as (A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment. 42 U.S.C. § 12102(1).

Plaintiff, in both his original and amended complaint, fails to state a claim because he does not allege any disability or that he was perceived as being disabled by his coworkers. Plaintiff also does not allege he was subjected to unlawful discrimination because of any disability. In fact, Plaintiff only alleges he suffered an undisclosed injury and several months later received a demotion. (Doc. no. 1, p. 6; doc no. 8, p. 6.)

Accordingly, the Court **ADOPTS** the Report and Recommendation of the Magistrate Judge as modified herein, as its opinion, **DISMISSES** Plaintiff's complaints without prejudice, and **CLOSES** this civil action.

SO ORDERED this 12th day of January, 2021, at Augusta, Georgia.



J. RANDAL HALL, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA